

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION

DEBBIE KRUMM, LUCAS KRUMM, and
ANDRAYA KRUMM,

Plaintiffs,

vs.

UNITED STATES OF AMERICA,

Defendant.

CASE NO. 1:22-cv-159

COMPLAINT

and

JURY TRIAL DEMAND

THE PLAINTIFFS, for their cause of action against Defendant, state as follows:

PARTIES

1. At all times material hereto, Plaintiffs Debbie Krumm and Lucas Krumm were residents of Marion, Linn County, Iowa.

2. At all times material hereto, Plaintiff Andraya Krumm was a resident of Hiawatha, Linn County, Iowa.

JURISDICTION AND VENUE

3. This action is brought under the Federal Tort Claims Act, U.S.C. § 1346(b), 2671.

4. Plaintiffs filed a Claim for Damage, Injury, or Death, which was received by the National Tort Center on February 8, 2022 (NTC File Nos. NT202231359, NT202231360, NT202231361).

5. The Court has exclusive jurisdiction over these claims under 28 U.S.C. § 1346(b)(1).

6. The United States Postal Office involved in this matter is located in Marion, Linn County, Iowa which is in the Northern District of Iowa. The acts giving rise to these claims took place in Marion, Linn County, Iowa.

7. At all times material hereto, Plaintiffs Debbie Krumm and Lucas Krumm were residents of Marion, Linn County, Iowa, located in the Northern District of Iowa.

8. At all times material hereto, Plaintiff Andraya Krumm was a resident of Hiawatha, Linn County, Iowa, located in the Northern District of Iowa.

9. Accordingly, venue lies in this district under 28 U.S.C. § 1391.

COMMON ALLEGATIONS

Plaintiffs replead and incorporate by reference Paragraphs 1 through 9 of this Complaint as if fully set forth herein.

10. At all times material hereto, James Martin was the operator of a 2015 Grumman LLV postal truck bearing license plate number 3304176.

11. At all times material hereto, Defendant United States of America through the United States Postal Service was the owner of the aforementioned vehicle.

12. At all times material hereto, James Martin was an agent and/or employee of Defendant United States of America through the United States Postal Service and was operating the vehicle in the course and scope of his agency and/or employment.

13. At all times material hereto, James Martin had full consent and permission from Defendant United States of America through the United States Postal Service to operate the vehicle described in paragraph ten (10).

14. On or about August 15, 2020, at approximately 3:38 p.m., Plaintiffs were pedestrians on W 9th Ave at the 800 block of Marion, Linn County, Iowa.

15. At the aforementioned time and place, James Martin was driving east on W 9th Ave at the 800 block of Marion, Linn County, Iowa.

16. At the aforementioned time and place, James Martin drove under a low hanging cable connected to a damaged power pole leading the cable to strike Plaintiffs.

17. Plaintiffs sustained injuries and damages as a result of the incident.

18. Defendant United States of America through the United States Postal Service and its agents and employees, including but not limited to James Martin, were generally negligent and specifically negligent in the operation of the aforementioned vehicle, including but not limited to the following particulars:

- a. Failure to keep a proper lookout;
- b. Failing to maintain control;
- c. Failing to act as a reasonable driver under the circumstances; and
- d. Other manners which may become known through the course of discovery.

19. The negligence of James Martin is imputed to Defendant United States of America through the United States Postal Service under Iowa Code Section 321.493.

20. The negligence of James Martin is imputed to the Defendant United States of America through the United States Postal Service under the doctrine of respondeat superior.

21. Plaintiffs filed their claim with the United States Postal Service National Tort Center on February 4, 2022, in accordance with the Federal Tort Claims Act, 28 U.S.C. § 1346(b), 2671.

22. The United States Postal Service National Tort Center received Plaintiffs' federal tort claims on February 8, 2022.

23. More than six (6) months has passed since the filing of Plaintiffs' federal tort claims, without further correspondence from the National Tort Center.

24. The amount in controversy exceeds the jurisdictional minimum of \$75,000.

COUNT I

Plaintiff, Debbie Krumm, for her cause of action against Defendant, states as follows:

25. Plaintiff repleads paragraphs 1 through 24 as if fully set forth herein.

26. Defendant United States of America through the United States Postal Service and its agents and employees' negligence was a cause of the incident in which Plaintiff was injured.

27. The injuries and damages sustained by Plaintiff were caused by and were within the scope of Defendant United States of America through the United States Postal Service's liability.

28. At all times material hereto, James Martin was operating the vehicle with knowledge and consent of Defendant United States of America through the United States Postal Service, and therefore, pursuant to Iowa Code Section 321.493, Defendant United States of America through the United States Postal Service is liable for the injuries and damages suffered by Plaintiff.

29. Defendant United States of America through the United States Postal Service is responsible for the negligent acts of James Martin, whose negligent acts were done within the course and scope of his employment with Defendant United States of America through the United States Postal Service.

30. As a direct result of the negligence of Defendant United States of America through the United States Postal Service and its agents and employees, Plaintiff has suffered and will in the future continue to suffer injuries and damages, including, but not limited to:

- i. Past and Future Medical Expenses;
- ii. Past and Future Wage Loss/Loss of Earning Capacity;
- iii. Past and Future Physical and Mental Pain and Suffering;
- iv. Past and Future Loss of Function of Mind and Body;
- v. Property Damage; and
- vi. any other element of loss recognized by Iowa law not specifically set forth herein.

WHEREFORE, Plaintiff prays for judgment against Defendant, in an amount that will fully, fairly, and adequately compensate her for the injuries and damages sustained, together with interest

as provided for by law, and the costs of this action, and such other and further relief as is just.

COUNT II

Plaintiff, Lucas Krumm, for his cause of action against Defendant, states as follows:

31. Plaintiff repleads paragraphs 1 through 30 as if fully set forth herein.

32. Defendant United States of America through the United States Postal Service and its agents and employees' negligence was a cause of the incident in which Plaintiff was injured.

33. The injuries and damages sustained by Plaintiff were caused by and were within the scope of Defendant United States of America through the United States Postal Service's liability.

34. At all times material hereto, James Martin was operating the vehicle with knowledge and consent of Defendant United States of America through the United States Postal Service, and therefore, pursuant to Iowa Code Section 321.493, Defendant United States of America through the United States Postal Service is liable for the injuries and damages suffered by Plaintiff.

35. Defendant United States of America through the United States Postal Service is responsible for the negligent acts of James Martin, whose negligent acts were done within the course and scope of his employment with Defendant United States of America through the United States Postal Service.

36. As a direct result of the negligence of Defendant United States of America through the United States Postal Service and its agents and employees, Plaintiff has suffered and will in the future continue to suffer injuries and damages including, but not limited to:

- i. Past and Future Medical Expenses;
- ii. Past and Future Wage Loss/Loss of Earning Capacity;
- iii. Past and Future Physical and Mental Pain and Suffering;
- iv. Past and Future Loss of Function of Mind and Body; and

- v. any other element of loss recognized by Iowa law not specifically set forth herein.

WHEREFORE, Plaintiff prays for judgment against Defendant, in an amount that will fully, fairly, and adequately compensate him for the injuries and damages sustained, together with interest as provided for by law, and the costs of this action, and such other and further relief as is just.

COUNT III

Plaintiff, Andraya Krumm, for her cause of action against Defendant, states as follows:

37. Plaintiff repleads paragraphs 1 through 36 as if fully set forth herein.
38. Defendant United States of America through the United States Postal Service and its agents and employees' negligence was a cause of the incident in which Plaintiff was injured.
39. The injuries and damages sustained by Plaintiff were caused by and were within the scope of Defendant United States of America through the United States Postal Service's liability.
40. At all times material hereto, James Martin was operating the vehicle with knowledge and consent of Defendant United States of America through the United States Postal Service, and therefore, pursuant to Iowa Code Section 321.493, Defendant United States of America through the United States Postal Service is liable for the injuries and damages suffered by Plaintiff.
41. Defendant United States of America through the United States Postal Service is responsible for the negligent acts of James Martin, whose negligent acts were done within the course and scope of his employment with Defendant United States of America through the United States Postal Service.
42. As a direct result of the negligence of Defendant United States of America through the United States Postal Service and its agents and employees, Plaintiff has suffered and will in the future continue to suffer injuries and damages including, but not limited to:
 - i. Past and Future Medical Expenses;

- ii. Past and Future Wage Loss/Loss of Earning Capacity;
- iii. Past and Future Physical and Mental Pain and Suffering;
- iv. Past and Future Loss of Function of Mind and Body; and
- v. any other element of loss recognized by Iowa law not specifically set forth herein.

WHEREFORE, Plaintiff prays for judgment against Defendant, in an amount that will fully, fairly, and adequately compensate her for the injuries and damages sustained, together with interest as provided for by law, and the costs of this action, and such other and further relief as is just.

/s/Tim Semelroth

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/s/ Josh Christensen

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